

REMARKS – General

Claim Rejections under 35 USC §103:

The Office Action (OA) of April 4, 2007 stated that claims 87-92 were allowable over prior art. The most recent OA, however, now rejects claims 87-29 under 35 USC §103 as being unpatentable over Olin et al., US Pub App. No. 2004/0005878, hereinafter “Olin,” in view of Ala-Laurila et al., US Pub App. No. 2003/0157926, hereinafter Ala-Laurila.

Applicants respectfully traverse this rejection. Applicants respectfully submit that the prior art cited in the rejection fails to teach all of Applicants’ claimed limitations, as Ala-Laurila is an ineffective reference under 35 USC §103.

In making the traversal, Applicants rely upon the MPEP 706.02, which provides conditions for patentability for non-obvious subject matter. MPEP 706.02 states that each reference used to reject claims under 35 USC §103 must constitute prior art as under 35 USC §102.

Applicants respectfully submit that Ala-Laurila does not constitute prior art under 35 USC §102 with respect to Applicants’ application. Applicants note first that Ala-Laurila was published on August 21, 2003, which is after Applicants’ filing date of February 26, 2002. Further, Ala-Laurila was filed in the United States on February 20, 2003, after Applicants’ filing date. As such, Applicants respectfully submit that Ala-Laurila does not constitute prior art under any of 35 USC §102(a)-(d) or 35 USC §102(f)-(g).

However, MPEP §2136.03 sets forth conditions under which a US Published Application claiming priority to an application filed under the PCT may obtain its PCT filing date as the US filing date. The PCT filing date of Ala-Laurila is March 23, 2001. The requirements are (1) that the international application was filed on or after November 29, 2000; (2) the international application designated the United States; and (3) that the international application published under PCT Article 21(2) in English. As Ala-Laurila met these requirements, the US filing date for Ala-Laurila under 35 USC 102(e) is the PCT filing date March 23, 2001.

The above notwithstanding, Applicants respectfully submit that even with a US filing date of March 23, 2001, Ala-Laurila is ineffective as a reference under 35 USC §102(e) against Applicants' application. Applicants note that the OA states that Ala-Laurila teaches a server accumulating transferred data amount and received data amount, in a WLAN environment, and further discloses billing in a packet data network wherein billing data is sent to an accounting server, and billing gateway/server that collects charging information for accumulation of billing charges.

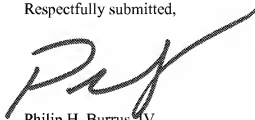
Applicants note that Applicants' application claims priority to a provisional application filed February 26, 2001, **prior to the March 23, 2001 filing date of Ala-Laurila**. According to MPEP §706.02(V)(D), "If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application." Applicants respectfully submit that a server accumulating transferred data amount and received data amount, in a WLAN environment, and further discloses billing in a packet data network wherein billing data is sent to an accounting server, and billing gateway/server that collects charging information for accumulation of billing charges is taught in the provisional application at at least pages 5,8, and 7-14. Applicants respectfully submit that the US filing date of Applicants' application is thus February 26, 2001 for this subject matter, thereby antedating Ala-Laurila as a reference under 35 USC §102(e), and therefore 35 USC §103 as well.

As the remaining reference Olin fails to teach a server accumulating transferred data amount and received data amount, in a WLAN environment, and further discloses billing in a packet data network wherein billing data is sent to an accounting server, and billing gateway/server that collects charging information for accumulation of billing charges, as is correctly stipulated by the OA, Applicants respectfully submit that the prior art fails to teach all of Applicants' claimed limitations. Applicants respectfully request reconsideration of the rejection in light of these comments.

CONCLUSION

For the above amendments to the claims, Applicants believe the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Applicants believe this application is now in condition for allowance, for which they respectfully submit. If any matter may be more easily handled by telephone, the undersigned attorney welcomes telephone calls from the Examiner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Burrus, IV', with a long, sweeping horizontal stroke extending to the right.

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